

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE**

In Re:	*	Chapter 7
	*	Case No. 20-10424-BAH
Theresa Pearson	*	
	*	Hearing Date: December 9, 2020
	*	Hearing Time: 1:30 p.m. (Eastern Time)
Debtor(s)	*	Objection Deadline: December 2, 2020

**MOTION TO COMPEL ABANDONMENT OF
DEBTOR'S ½ INTEREST IN HER HOMESTEAD**

Theresa Pearson, Chapter 7 Debtor (“Debtor”) moves pursuant to 11 U.S.C. §554(b) to compel the Trustee to abandon the Trustee’s interest in 848 Rollins Road, Hopkinton, New Hampshire (the “Residence”) pursuant to 11 U.S.C. §554(b), as follows:

1. Debtor filed a Chapter 7 Petition on April 18, 2020. (the “Petition Date”).
2. As of the Petition Date, Debtor owned a ½ interest in her residence located 848 Rollins Road, Hopkinton, NH (the “Residence”).
3. The Residence is encumbered by an \$81,000 mortgage in favor of Katherine Drisko (“Drisko”) on the Petition Date.
4. Drisko claims the balance of the mortgage included not only the \$81,000 piece but advances she made on the first/bank mortgage on the Residence to retire it of over \$320,000.00. (the “Advance Payments”).
5. Debtor disputes the right of Drisko to charge her mortgage with the Advance Payments.

6. Debtor owns ½ of the Residence . Drisko owns the other half. The Residence is worth no more than \$340,000.00, and probably less. This means that Debtor's ½ interest is worth no more than \$170,000.00 with the \$81,000 mortgage and Debtor's homestead interest of \$120,000.00, there is no equity in Debtor's portion of the house even if the dispute regarding the Additional Payments is resolved 100% in Debtor's favor. The Debtor is certain of the value because she attempted to employ a broker in her chapter 13 case, and his listing price was \$339,000.00 with a \$15,000 credit for repairs. See Exhibit A, Listing Agreement.

7. The Debtor and Drisko reached agreement on the payment of the homestead claim, which is attached as Exhibit A to the settlement motion.

8. The Trustee may assert that she is entitled to some recovery out of the Residence. This is not the case. The Residence is fully encumbered by the mortgage and the homestead claim (and perhaps by the mortgage alone.) The Residence is of no value to the estate and is burdensome to the estate because it has carrying costs until it can be sold.

9. "On request of a party in interest and after notice and hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value to the estate." 11 U.S.C. §554(b).

10. In this case there is no question the Residence is fully encumbered and is of no value to the estate and the carrying costs of the Residence are significant. The Trustee should be compelled to abandon Debtor's interest in her Residence to the Debtor.

WHEREFORE, Debtor respectfully requests this Court:

A. Compel the Trustee to abandon Debtor's interest in the Residence; and

B. Grant such other and further relief as the Court deems just and equitable.

Respectfully Submitted,

Theresa Pearson, Plaintiff
By and Through Her Attorneys
Notinger Law, PLLC

Date: October 29, 2020

/s/ Steven M. Notinger
Steven M. Notinger (BNH #03229)
Notinger Law, PLLC
PO Box 7010
Nashua, NH 03060-7010
(603) 888-0803
steve@notingerlaw.com

Certificate of Service

I hereby certify that I have on this date served the foregoing document upon the parties registered to receive electronic notice in this matter via CM/ECF.

Via CM/ECF

20-10424-BAH Notice will be electronically mailed to:

Brad C. Davis on behalf of Creditor Katherine Drisko
brad@davishuntlaw.com

Brad C. Davis on behalf of Defendant Katherine Drisko
brad@davishuntlaw.com

Olga L. Gordon
ogordon@murthalaw.com, MA40@ecfcbis.com; jbabula@murthalaw.com; lmulvehill@murthalaw.com

Steven M. Notinger on behalf of Debtor Theresa Pearson
steve@notingerlaw.com, cheryl@notingerlaw.com; debbie@notingerlaw.com

Steven M. Notinger on behalf of Plaintiff Theresa Pearson
steve@notingerlaw.com, cheryl@notingerlaw.com; debbie@notingerlaw.com

Office of the U.S. Trustee
USTPRegion01.MR.ECF@usdoj.gov

Lawrence P. Sumski
SumskiCh13@gmail.com

Dated: October 29, 2020

By: /s/ Steven M. Notinger
Steven M. Notinger, Esq. (BNH #03229)